STATE OF NEW YORK

9860

IN SENATE

June 6, 2024

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to invoking coverage of a health insurance plan for long term care for an incapacitated individual

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 5 and subparagraph (D), the second undesignated paragraph and the closing paragraph of paragraph 6 of subsection (b) of section 1117 of the insurance law, paragraph 5 as amended by chapter 572 of the laws of 2008 and subparagraph (D), the second undesignated paragraph and the closing paragraph of paragraph 6 as amended by chapter 424 of the laws of 2016, are amended and a new paragraph 7 is added to read as follows:

(5) the authorized insurer, health maintenance organization, or fraternal benefit society agrees to provide such reports of the experience of the plan as may be requested by the superintendent. The superintendent may prepare abstracts and summaries of such reports at the request of other government agencies for purposes of research and studies related to long term care financing, provided however that the insurer, health maintenance organization, or fraternal benefit society may request that specified information included in the report be considered confidential; [~~and~~]

(D) (i) If available and accessible by the insurer or other entity from the department of health, the most recently-published average, statewide rate for care in a nursing home, as well as the average rates for care in nursing homes for both the New York city-metropolitan and upstate regions of the state; or

(ii) If available and accessible by the insurer or other entity from the department of health, the most recently-published map of the estimated average regional rates in New York state for nursing home care**;**

(iii) Failure to provide information required by this subparagraph shall not be construed as a violation of this section if such information has not been made available by the department of health;

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD15596-01-4

For the purpose of this paragraph, "home care services" shall have the same meaning as defined in subdivision one of section thirty-six hundred two of the public health law. The prospective insured, or [~~his or her~~] their representative, shall acknowledge that the required disclosure has been made by signing the disclosure statement prior to or contemporaneously with the effective date of the policy or certificate[~~.~~ ~~Failure to provide information required by subparagraph (D) of this paragraph shall not be construed as a violation of this section if such information has not been made available by the department of health.~~]; and

(7) (A) the plan shall include a provision authorizing the insured's spouse, if not legally separated from the insured, or domestic partner to invoke insurance coverage by the plan where the insured did not properly execute a power of attorney allowing for the invocation of such plan's coverage;

(B) such provision shall provide that the spouse or domestic partner's authority shall commence upon a determination, made pursuant to section twenty-nine hundred ninety-four-c of the public health law, that the insured lacks decision-making capacity. In the event an attending physician or nurse practitioner determines that the insured has regained decision-making capacity, the authority of the spouse or domestic partner shall cease.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to health insurance plans for long term care issued or renewed on or after such date.